

CAMPAIGN SPENDING RULES

PLEASE NOTE: *The Campaign Spending Rules has been compiled for reference purposes only and should not be used as an authority on the campaign spending rules of Hawaii.*

Historical Note: Chapter 14 of Title 2 is based substantially upon Regulation I, Rules and Regulations, Campaign Spending Commission. [Eff. 5/24/74; am 10/18/76; am 7/11/78; am 4/15/80 R MAR 15 1982]

§2-14-1 Committee reports. Each committee defined in section 11-191(6)(A), Hawaii Revised Statutes, which makes expenditures in aggregate more than \$1,000 per election shall file reports as required by the appropriate sections of Chapter 11, Subpart B, Hawaii Revised Statutes. The period of aggregation for the primary, special primary, or special election shall begin January 1st of the calendar year preceding the year in which the election is held through the day of the primary, special primary, or special election. The period of aggregation for the general or special general election shall begin the day after the primary or special primary election through December 31st of the year in which the election is held. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-191(6)(D))

§2-14-2 Reporting deadline. Where any reporting deadline falls on a holiday or weekend, the deadline shall be the last working day prior thereto. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §§11-194, 11-196, 11-212, 11-213)

§2-14-3 Expenditures. (a) An expenditure authorized by a candidate, the candidate's authorized representative, or campaign treasurer named by the candidate shall be attributed to the candidate for reporting purposes. A party or committee organized without direct participation of a candidate shall maintain complete records of transactions made on behalf of a candidate.

(b) Donations by candidates to community organizations or youth, recreation, or social groups shall be presumed to be campaign expenditures for reporting purposes. This presumption may be rebutted by clear evidence showing otherwise.

(c) Each authorization by a candidate to another person or persons to raise funds or to make expenditures on behalf of the candidate shall state:

- (1) The name, address, and organizational affiliation of each authorized individual;
- (2) The name of the candidate;
- (3) The office sought and the election involved; and
- (4) Any limitation or restriction imposed.

Each authorization shall be signed and dated by the candidate.

(d) All disbursements and uses of campaign funds and political contributions authorized by any candidate, committee, or party shall be deemed to be for the election next following the period in which the expenditure is reportable to the commission unless the person filing the report required by this chapter furnishes information to justify an allocation to a later date. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §§11-191(10), 11-207)

§2-14-4 House bulletins. In no event shall costs of preparing, printing, and circulating house bulletins as defined in section 11-191(11), Hawaii Revised Statutes, give rise to a reporting requirement on the part of any person sponsoring the communication or those persons receiving the benefits of the publication. However, the definition of "house bulletin" shall be construed narrowly by the commission to exclude paid political advertisements and special edition publications for general distribution to the public. The exemption shall be construed to favor intra-organization communications of whatever nature. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-191(11))

§2-14-5 Record keeping. Each candidate, campaign treasurer of a committee, and any other person who is required to report expenditures shall maintain records for at least two years after the filing deadline for each report on the matter required to be reported including vouchers, worksheets, and receipts which shall provide in sufficient detail the necessary information and data, from which the reports and statements may be verified, explained, or clarified, and checked for accuracy and completeness. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-193(b)(8))

§2-14-6 Legislative newsletters, reports, surveys, and polls. (a) Payment of costs incurred in the preparation, publication, and distribution of reports, i.e., legislative newsletters, reports, surveys, or polls which influences the nomination for election, or election, to office of any candidate shall be deemed an expenditure required to be reported under sections 11-212 and 11-213, Hawaii Revised Statutes, unless specifically excepted by this section:

(1) Use of campaign funds to pay for costs of the reports, surveys, or polls are always reportable expenditures;
(2) Use of personal funds or funds other than contributed funds for costs of such reports, surveys, or polls are deemed reportable expenditures if expended by a person found to be a candidate as defined in section 11-191(3), Hawaii Revised Statutes.

(b) The payment of costs for the following reports, surveys, or polls are specifically excepted as reportable expenditures:

(1) Reports, surveys, or polls of independent organizations not affiliated with any candidate, and whose candidate and whose

report, survey, or poll is either available to all candidates as well as the general public or is confidential and not distributed or publicized at any time prior to an election in which the report, survey, or poll would have an influence;

(2) Reports, surveys, or polls required by law to be made by any governmental agency and for which funds have been appropriated by law;

(3) Reports, surveys, or polls of incumbent officeholders, not candidates, who pay for costs of publication and distribution from funds which have been specifically appropriated by law; and

(4) Reports, surveys, or polls of any news reporting agencies or communications media who have neither received nor contributed any moneys on behalf of any candidate.

(c) The exceptions stated in subsection (b) may be disallowed and found to be reportable expenditures where the report, survey, or poll directly identifies a person who is a candidate, advocates or supports the candidate's nomination for election, or election, or defeat, or is published within ninety days prior to any election day. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-191(10))

§2-41-7 Code endorsement by candidates. (a) Any candidate for elective office may voluntarily elect to conduct the candidate's campaign in accordance with the code of fair campaign practices. A copy of which is attached as Exhibit A. Copies of the code shall be available from the commission.

(b) A candidate who agrees to abide by the code shall furnish the commission with two signed copies of the code at any time on or after the day the person becomes a candidate. In the case of counties having less than 200,000 voters, the filing shall be accomplished by filing an original and two copies with either the commission or the clerk of the county in which the candidate resides.

(c) For the duration of the campaign for which it is applicable, the commission shall retain the signed copy of the code on file and check its file against the list of candidates submitted to the chief election officer as provided in section 12-9, Hawaii Revised Statutes. If a candidate has not endorsed the code, the commission shall solicit the candidate's participation.

(d) Whether a candidate has endorsed the code shall be public information available on request from the commission office. Fifteen days prior to any primary election, special primary, or special election, the commission shall issue a list of candidates who have endorsed the code for that campaign. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-193(b)(4))

§2-14-8 Contribution limits for persons, primary elections, general elections, special primary, and special elections. (a) The \$2,000 contribution limit to all candidates in a primary, special primary, general, or special election applies to all individuals, partnerships, labor unions, and their auxiliary committees, associations, corporations, and committees.

Only

political parties and a candidate and the candidate's immediate family are exempt from this restriction.

(b) A person may contribute up to a maximum of \$2,000 to a candidate, but only within the primary election period. The primary election period for each office begins on January 1st of the calendar year preceding an election year through the day of the next regularly scheduled primary election.

(c) A person may contribute up to a maximum of \$2,000 to a candidate, but only within the general election period. The general election period for each office begins on the day after the last regularly scheduled primary election through December 31st of an election year.

(d) A person may contribute up to a maximum of \$2,000 to a candidate in a special primary or special election exclusive of any amounts contributed in a primary or general election. The special primary election period begins January 1st of the calendar year preceding the special election through December 31st of the special election year. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-204)

§2-14-9 Political party contributions. For purposes of section 11-205, Hawaii Revised Statutes the limitations placed on a political party's contributions to a candidate shall be in effect from January 1st of each year through December 31st, of the same year. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-205)

§2-14-10 Application for public funds. (a) Application for public funds shall be on forms prescribed by the commission and shall certify that all penalties and any other moneys owed to the Hawaii election campaign fund have been paid. To apply for public funds a candidate shall:

- (1) File a statement of intent to seek qualifying campaign contributions with the commission;
 - (2) Fill out an application form requesting that the candidate receive public funds;
 - (3) File an affidavit with the commission which states that the candidate is aware of the campaign expenditure limit for the candidate's office and is willing to abide by this limit; and
 - (4) Submit a qualifying campaign contribution schedule which shall list:
 - (A) The name and address of each person who contributed an aggregate of \$100 or less to the candidate since filing the statement of intent to seek qualifying campaign contributions; and
 - (B) The total amount of each such qualifying contribution and the date of receipt by the candidate or campaign treasurer of the contribution.
- (b) After the initial certification for eligibility for public funds has been made by the

commission, a candidate may receive subsequent funding by:

- (1) Filling out an application form with the commission requesting additional funds; and
- (2) Submitting statements which shall contain the same information as required by the initial qualifying contribution statement as to donors who have contributed to the candidate's campaign fund since the last current statement was filed. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §§11-217, 11-222)

§2-14-11 Authorized campaign expenses of public funds. (a) The commission shall only authorize use of public funds by a candidate for filing fees, media (newspaper, radio and TV), and printing costs. A candidate may use public funds to repay a loan if the proceeds of the loan were used to pay for authorized campaign expenses. Each candidate shall keep a complete record of campaign expenses paid for with public funds.

(b) A candidate shall use the candidate's public funds to pay for campaign expenses which were directly incurred during the election period in which the candidate received the public funds. Public funds received during a primary or special primary election period may not be used during a general election period. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-223)

§2-14-12 Disposition of excess funds. (a) All contributions received by candidates who have withdrawn or ceased to be candidates, committees directly associated with those candidates, individuals who received contributions but did not file for nomination, or committees, or parties which discontinue their activities shall return all residual private campaign contributions to the original donors if their identities are known. Whenever a donor cannot be found the contribution shall escheat to the Hawaii election campaign fund.

(b) Elected officials or candidates who failed to be nominated or elected may make a proportionate distribution to their donors if they can be found or they may contribute any residual private funds to any candidate, party, charity, non-profit organization, or to the Hawaii election campaign fund. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-214)

§2-14-13 Declaratory order, filing of petition. (a) Any interested person or organization may petition the commission for a declaratory order as to the applicability of any statutory provision administered by the commission or of any rule or order of the commission.

- (b) The petition need not be in any special form. The original and one copy thereof shall be filed with the commission.
- (c) The petition shall contain the following:
 - (1) The name, address, zip code, and telephone number of the petitioner;
 - (2) A statement of the nature of petitioner's interest, including reasons for the submission of the petition;

- (3) A designation of the specific provision, rule, or order in question;
- (4) A clear and concise statement of the position or contention of the petitioner;
- (5) A memorandum of authorities, containing a full discussion of the reasons, including legal authorities, in support of the position or contention. The commission may require the petitioner to file additional data or memorandum;
- (6) The signature of each petitioner.
- (d) Any petition which does not conform to the requirements of this section may be rejected. [Eff. MAR 15 1982] (Auth: HRS §91-8) (Imp: HRS §91-8)

§2-14-14 Intervention. Petitions to intervene and become a party to the proceeding may be submitted in writing to the commission. Intervention shall not be granted except on averments which are reasonably pertinent to the issues already presented, but do not unduly broaden them. If intervention is granted, the petitioner thereby becomes an intervenor and a party to the proceeding to the degree indicated by the order allowing intervention. [Eff. MAR 15 1982] (Auth: HRS §91-8) (Imp: HRS §91-8)

§2-14-15 Disposition of petition. The commission shall consider each petition submitted, and within a reasonable time after the submission thereof, either deny the petition in writing, stating its reason for the denial, or issue a declaratory order on the matter contained in the petition. [Eff. MAR 15 1982] (Auth: HRS §91-8) (Imp: HRS §91-8)

§2-14-16 Request for hearing of petition. (a) Although in the usual course of processing a petition for a declaratory order no formal hearing shall be granted to the petitioner, the commission may order the proceeding set down for hearing.

(b) Any petitioner who desires a hearing on a petition for declaratory order shall set forth in detail in the request, together with supporting affidavits or other written evidence and briefs or memoranda of legal authorities, the reasons why the matters alleged in the petition will not permit the fair and expeditious disposition of the petition and, to the extent that the request for hearing is dependent upon factual assertion, shall accompany the request by affidavit establishing those facts. [Eff. MAR 15 1982] (Auth: HRS §91-8) (Imp: HRS §91-8)

§2-14-17 Refusal to issue declaratory order. The commission, for good cause, may refuse to issue a declaratory order. Without limiting the generality of the foregoing, the commission may so refuse where:

- (1) The question is speculative or purely hypothetical and does not involve existing facts, or facts which can reasonably be expected to exist in the near future;

- (2) The petitioner's interest is not of the type which would give him standing to maintain an action if the petitioner were to seek judicial relief;
- (3) The issuance of the declaratory order may adversely affect the interests of the commission or any of its officers or employees in litigation which is pending or may reasonably be expected to arise; or
- (4) The matter is not within the jurisdiction of the commission. [Eff. MAR 15 1982]
(Auth: HRS §91-8) (Imp: HRS §91-8)

§2-14-18 Order of Petition. (a) An order disposing of the petition shall be applicable only to the factual situation alleged in the petition or set forth in the order.

(b) The order shall not be applicable to different factual situations or where additional facts not considered in the order exist.

(c) The order shall have the same force and effect as other orders issued by the commission, and may be the subject of a contested case as provided by law. [Eff. MAR 15 1982] (Auth: HRS §91-8) (Imp: HRS §91-8)

§2-14-19 Declaratory order on commission's own motion. Notwithstanding the other provisions of this chapter, the commission, on its own motion, may issue a declaratory order to terminate a controversy or to remove an uncertainty. [Eff. MAR 15 1982] (Auth: HRS §91-8) (Imp: HRS §91-8)

§2-14-20 Procedures relating to filing of legal documents. (a) All disclosures, complaints, pleadings, submittals, petitions, briefs, memoranda, and other papers required or permitted to be filed with the commission in any proceeding shall be filed with the director of the commission.

(b) Papers may be sent by mail or hand delivered to the commission's office in Honolulu within the required time limit, if any, for the filing of papers.

(c) The date on which the papers are actually received by the commission shall be deemed to be the date of filing.

(d) All papers shall be signed in permanent ink by the party or a duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that:

- (1) The person has read the document;
- (2) To the best of the person's knowledge, information, and belief, every statement contained in the document is true;

- (3) There are no misleading statements; and
- (4) The document is not submitted merely for the purpose of delaying any procedure before the commission.
- (e) Unless otherwise specifically provided by statute, rule, or order of the commission, only an original of all papers shall be filed.
- (f) The initial document filed by any person in any proceeding shall state on the first page of the document, the name and mailing address of the person or persons to be served with any subsequent document in the proceeding. [Eff. MAR 15 1982] (Auth: HRS §91-8) (Imp: HRS §91-8)

§2-14-21 Service of process, upon parties, personal service, service, by mail, certification of service.(a) The commission shall cause to be served all orders, notices, and other papers issued by it, together with any other papers which the commission is required by law to service.

(b) All papers served by either the commission or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agents designated by them or by law.

(c) The final opinion, decision, and any other papers required to be served by the commission upon a party, shall be served upon the counsel of record, if any, or the individual or the individual's agent designated by the individual or by law to receive service of such papers.

(d) The person's most current address shall constitute the place of personal service upon the person by the commission.

(e) Where a person registered with the commission elects to supply the commission with a mail or post office address in lieu of the person's residence, that person shall be deemed to have elected to receive all communications and personal service through the United States Postal Service as the person's agent for service of process. Service of a complaint or other notice of proceedings shall be effective upon the person upon the depositing of the complaint or communication in the United States mail with first-class postage.

(f) Service by personal service or by mail shall be indicated by a certification of time and place of delivery filed with the commission. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §§11-193(b)(1), 11-216)

§2-14-22 Subpoenas, application, enforcement. (a) Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place within the state at the commission office, or any designated place for a hearing, shall be issued by the chairman or another person as the chairman may designate.

(b) Application for subpoenas shall be made in writing to the commission. The application shall be reasonable in scope and specify as clearly as possible documents or data desired, and show their general relevancy.

(c) For production of documentary evidence or appearance of witnesses at a hearing, application for subpoenas shall be made at least three days prior to the hearing.

(d) Enforcement of obedience to a subpoena issued by the commission and served pursuant to this chapter shall be effected by written application of the chairman or the chairman's designee to any circuit court judge in the county where the person subpoenaed resides or is found. [Eff. MAR 15 1582] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-193(c))

§2-14-23 Witnesses, fees. (a) All witnesses shall appear in person and shall be examined under oath or affirmation.

(b) Summoned witnesses shall be paid by the party in whose instance the witnesses appear. The amount of payment shall be the same fees and mileage as are paid witnesses in the courts of the state. [Eff. MAR 15 1982] (Auth: HRS 193(b)(5)) (Imp: HRS §11-193(c))

§2-14-24 Consolidations. The commission, upon its own initiation or upon motion, may consolidate for hearing or for other purposes or may contemporaneously consider two or more proceedings which involve substantially the same parties or issues which are the same or closely related, if it finds that such consolidation or contemporaneous hearing will be conducive to the proper dispatch of its business and to the ends of justice and will not unduly delay the proceedings. [Eff. MAR 15 1982] (Auth: HRS §11-193(b) (5)) (Imp: HRS §11-216)

§2-14-25 Initiation of complaints. (a) Any person who believes a violation of the law administered by the commission has occurred may file a complaint in person or by mail with the commission. The complaint shall be signed by the complainant. Information concerning the filing or status of a complaint shall be treated in all cases as confidential by the commission and its staff.

(b) There is no prescribed form for a complaint, but it shall be legible and shall specify:

(1) The identity of the party complaining and, if the complaint is made by an organization on behalf of a candidate, the organization shall allege that it has the right to represent the candidate;

(2) The particular ground or grounds, upon which the complaint is based, the specific issues involved, the name of the respondent, the contentions of the complainant, and a description of the evidence the complainant intends to introduce in support of those contentions;

(3) A clear and concise statement of any other relevant facts; and

- (4) The action requested.
- (c) The complaint shall be signed by the person making the complaint, under oath, taken before any person authorized by law to administer oaths.
- (d) Upon receipt of a document which does not comply with this section or which does not in form or substance constitute a complaint, the commission shall notify the person signing the document and the respondent of the insufficiency.
- (e) After receipt of a complaint, the commission may:
 - (1) Cause an investigation to be made of the allegations of the complaint;
 - (2) Dismiss the complaint on the grounds that the complaint fails to state a violation as a matter of law or that the allegations alleged are contrary to information known to the commission;
 - (3) Dismiss the complaint on the grounds that the allegations are not substantiated by the investigation caused by the commission; or
 - (4) Issue a notice of hearing on the complaint, which shall specify the time, place and date of the hearing and the alleged violation. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-216)

§2-14-26 Respondent. The respondent shall appear before the commission at the time and place specified in the notice of hearing. If the respondent desires to file an answer to the complaint, the respondent shall file the original and five copies thereof with the commission at least three days before the time of hearing. [Eff. MAR 15 1982] (Auth: HRS §11-139(b)(5)) (Imp: HRS 11-216)

§2-14-27 Amendment of complaint. Any complainant may amend the complaint at the discretion of the commission at any time prior to the issuance of the final order based thereon. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-216)

§2-14-28 Investigation. (a) The commission may order the staff investigative attorney or any other person to conduct an investigation on the allegations of a complaint. The investigator shall have all of the authority to conduct discovery proceedings as permitted in criminal cases.

(b) The investigator shall file an advisory report with the commission within the time as the commission may order.

(c) If the commission dismisses the complaint, whether before or after investigation, the commission shall so notify the complainant and state the reason for dismissal. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-216)

§2-14-29 Probable cause hearings, confidentiality, pre-hearing conference,

presentation of evidence. Unless the respondent requests an open session on or before the date set for the hearing, the hearing shall be closed to the public and all matters presented at the hearing, including all documentary or testimonial evidence, shall not be made public by any person except as allowed by section 11-216(f) and (g), Hawaii Revised Statutes.

(b) If the commission determines that the issues will be complex, it may order a pre-hearing conference and require that the complainant and the respondent submit pre-hearing statements specifying the issues, theory of case, proposed evidence, and exhibits to be submitted, provided that the respondent need not comply if the respondent exercises the respondent's constitutional right against self-incrimination.

(c) The complainant and the respondent shall be afforded an opportunity to present evidence and argument on all issues involved.

(d) The rules of evidence shall be the same as those set out in section 91-10, Hawaii Revised Statutes.

(e) The burden of proof shall be on the complainant to show by a preponderance of the evidence that probable cause of a violation of the law or rules of the commission exists. [Eff.

MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §11-216)

§2-14-29 Record of hearing, final decision. (a) The record of the hearing shall be compiled in conformance with section 91-9 (e), Hawaii Revised Statutes.

(b) Unless specifically ordered by the commission, testimony shall not be reported verbatim. The complainant and the respondent shall be entitled to a copy of the record of the hearing or any part thereof upon application to the commission and upon payment of the cost thereof.

(c) The commission shall promptly serve the complainant and the respondent with a certified copy of the commission's final decision. [Eff. MAR 15 1982] (Auth: HRS §11-193(b)(5)) (Imp: HRS §91-9)